IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.130 OF 1993

M/s.Sunny Gold Winneries Pvt.ltd.)
A private Limited Company,)
registered under Companies Act)
having its registered office at)
Hotel Safari Building,)
Shivaji Nagar, Pune - 411 005.)..Petitioner
(Org.Defendant)

Vs.

A-1 Fabricators, a registered)
partnership firm registered under)
Indian Partnership Act, having its)
Office at W-43, M.I.C.C., Shiroli,)
Dist. Kolhapur.)..Respondent
(Org.Plaintiff)

--

Shri Mahesh Subramaniam i/b S/Shri M.M.Wadekar & S.V.Pitre for the petitioner.

Shri Umesh Mankupare for Shri R.V.More for the respondent.

--

And

CIVIL REVISION APPLICATION NO.131 OF 1993

M/s.K.P.S.M.Chemicals Pvt.Ltd.,)
A private Limited Company,)
registered under Companies Act)
having its registered office at)
Hotel Safari Building,)
Shivaji Nagar, Pune - 411 005.)..Petitioner
(Org.Defendant)

Vs.

A-1 Fabricators, a registered partnership firm registered under Indian Partnership Act, having its Office at W-43, M.I.D.C., Shiroli, Dist. Kolhapur. ..Respondent (Org.Plaintiff)

--

Shri Mahesh Subramaniam i/b S/Shri M.M.Wadekar & S.V.Pitre for the petitioner.

Shri Umesh Mankupare for Shri R.V.More for the respondent.

--

CORAM : R.M.S.KHANDEPARKAR, J

DATED : 23rd NOVEMBER, 2004.

ORAL JUDGMENT:

1. Since common questions of law and facts arise in these Civil Revision Applications, they were heard together and are being disposed of by this common judgment.

2. Heard. Perused the records.

3. Both these Civil Revision Applications arise out of the common judgment passed in the suits filed at Kolhapur Court wherein the preliminary objection was sought to be raised by the petitioners about the

lack of jurisdiction to the Kolhapur Court to entertain the suit on the sole ground that the agreement between the parties was entered into at Pune, where the petitioners' factory is situated. The trial Court, after hearing the parties and based on the evidence led by the parties, held that the agreement was concluded at Kolhapur, consequent to the acceptance of the order, secondly that the goods in terms of the agreement were delivered by the petitioners at Kolhapur, and thirdly that the bills issued by the petitioners in respect of the said goods supplied itself disclose that the same were "subject to Kolhapur jurisdiction."

4. The learned advocates appearing for the petitioners, while challenging the impugned order, have submitted that since the petitioners' factory is situated at Pune and all the discussions regarding the manufacturing and supply of goods to the respondents were concluded at Pune, the Court below erred in holding that the Kolhapur had jurisdiction to entertain the suit. The contention is seriously contested on behalf of the respondents.

5. Upon hearing the learned advocates for the parties and perusal of the records, it is seen that

the trial Court for the reasons mentioned hereinabove has held that the Kolhapur Court had jurisdiction to deal with the matters and accordingly has answered the issue of jurisdiction against the petitioners. The clear finding arrived at by the trial Court on assumption of the evidence on record discloses that the work of fabrication of the stainless steel tanks was undertaken on receipt of the work orders at Kolhapur, the confirmation of the order was at Kolhapur. Both those facts have been clearly established by the respondents. Mere negotiations do not amount to the contract itself. It is only on conclusion of the negotiations that the agreement comes into existence. The finding of the trial Court also discloses that the delivery of the goods was made to the petitioners at Kolhapur. The bill issued in relation to the goods supplied also disclosed that the same was issued subject to Kolhapur jurisdiction and the same was accepted by the petitioners without any reservation or objection to such clause in the bill. The trial court having arrived at the finding about the jurisdiction to entertain the suits by the Court at Kolhapur based on the analysis of the evidence on record and the findings being clearly borne out from the records, they do not disclose either to be perverse or contrary to the records, and hence does

not warrant interference in the exercise of revisional jurisdiction. The impugned order, therefore, does not disclose any impropriety or illegality in the exercise of jurisdiction by the trial Court while holding that the Court at Kolhapur has jurisdiction to entertain the suits in question and, therefore, there is no case for interference in the impugned order.

6. Both the Civil Revision Applications, therefore, fail and are hereby dismissed. The rule is discharged with no order as to costs.